



2024:DHC:9202-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 26.11.2024

+ W.P.(C) 1446/2023

BAIKUNTHA NATH DAS

.....Petitioner

Through: Mr. Ankit Negi, Adv.

Versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Kavindra Gill, SPC with
Mr. Ajay Pal, Law Officer and
Mr. Shiv Kumar Singh, Pairvi
Officer, CRPF.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner challenging the Order dated 30.06.2021 passed by the Deputy Inspector General (in short, 'DIG') (Administration) by which the request of the petitioner to postpone the date of proceeding on voluntary retirement was rejected and the acceptance of voluntary retirement of the petitioner with effect from 30.06.2021, was also cancelled.

2. The petitioner prays for a direction to the respondents to consider him as having voluntarily retired from his service with effect



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from 30.06.2021.

3. The petitioner further challenges any departmental proceedings that have been initiated against the petitioner, pursuant to his non-joining of the post at Group Center ('GC') Nagpur, where he was to report for duty post the cancellation of his voluntary retirement.

4. It is the case of the petitioner that on account of his Kidney Failure, he had undergone a kidney transplant surgery on 02.05.2016. He was transferred to the GC, CRPF, Nagpur, *vide* Signal No. T.IX.39/2020-Min.DA-3 dated 30.07.2020. His request for an extension of his posting at Delhi due to medical grounds was rejected *vide* Signal dated 07.09.2020, where after, he filed a writ petition before this Court, being W.P.(C) 6331/2020. The same stood dismissed *vide* an Order dated 11.09.2020. As he could not join his duty, he submitted an application/notice dated 05.03.2021 for his voluntary retirement with effect from 30.06.2021. The said application was accepted by the respondents *vide* Order dated 10.06.2021.

5. The petitioner claims that as this Order was received late by him and he could not complete all the formalities for the release of his pension, he requested for the change of retirement date from 30.06.2021 to 31.07.2021, *vide* Letter dated 24.06.2021. The same was, however, rejected by the Impugned Order dated 30.06.2021, and he was directed to report for duty at GC Nagpur.

6. Aggrieved of the same, the petitioner filed the present petition.

7. On the other hand, it is the case of the respondents that the request of the petitioner to proceed on voluntary retirement was accepted by the Competent Authority *vide* Order dated 10.06.2021.



Thereafter, the petitioner filed a fresh application dated 24.06.2021 requesting for a change of date of his voluntary retirement from 30.06.2021 to 31.07.2021 in order to get an increment which would have become due on 01.07.2021, however, the petitioner did not give sufficient time to the respondents to process his application.

8. The petitioner, along with his wife, also tried to force an entry into the Directorate General Office on 29.06.2021 without any authority and created a nuisance, because of which Delhi Police had to be called to remove them.

9. By an email dated 29.06.2021, the petitioner submitted his medical fitness certificate issued by CMO-I/C, CGHS Wellness Centre-13, Sarojini Nagar, New Delhi, with a request to join his duties in the Directorate stating that he is now fit for resuming his duties.

10. The petitioner was, however, *vide* a letter dated 05.07.2021 directed to report to GC Nagpur forthwith.

11. The petitioner did not join the duty by reporting at GC Nagpur, and remained wilfully absent from duty, because of which a Departmental Inquiry was conducted and a punishment of dismissal from service was awarded to the petitioner *vide* Order dated 11.07.2022.

12. This Court, considering the submissions made by the learned counsel for the parties, *vide* an Order dated 24.07.2024 of this Court, directed the respondents to reconsider compassionately the case of the petitioner. The Court observed as under:

“3. In light of these submissions made by the petitioner, we are of the prima facie view that matter needs to be reconsidered



compassionately by the respondents. The petitioner has served the respondents for more than three decades and merely because, he made a request for postponement of the date of his voluntary retirement by one month, the respondents ought not to have hastened to cancel the earlier order accepting his request for voluntary retirement. The action of the respondents in proceeding to hold departmental enquiry against him, well knowing that with his then medical condition, the petitioner would not be in a position to join at Group Centre, Nagpur was certainly uncalled for.

4. We, therefore, direct the respondents to reconsider the petitioner's request for voluntary retirement within a period of eight weeks from today. The decision taken by the respondents will be produced for perusal of this Court on the next date."

13. The learned counsel for the respondents has today handed over a copy of the Speaking Order dated 30.10.2024 issued by the DIG, CRPF, whereby the request of the petitioner for proceeding on voluntary retirement has been again rejected inter-alia by observing that his earlier request for proceeding on voluntary retirement had been accepted only because of his medical condition, however, once the petitioner claimed that he was medically fit to join duty, his application for proceeding on voluntary retirement could only have been submitted by the petitioner citing reasons for the same and after joining his duties at GC Nagpur. The petitioner instead did not join the duties at GC Nagpur, and therefore, his request for proceeding on voluntary retirement cannot be accepted.

14. We have considered the submissions of the learned counsels for the parties.



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15. In the present case, it is not disputed that the petitioner, due to his medical conditions, had sought voluntary retirement by an application dated 05.03.2021. The same was accepted by the respondents, *vide* its Order dated 10.06.2021, which was to be effective from 30.06.2021. It is also not disputed that the petitioner only wanted a one-month extension to proceed on voluntary retirement from 31.07.2021 instead of 30.06.2021, maybe for the reason that he would have earned one increment in the *interregnum*, which would have become due and payable on 01.07.2021. However, in our opinion, only for this reason, the voluntary retirement of the petitioner which already stood accepted by the respondents could not have been cancelled. At best, the request of the petitioner for postponement of his date of retirement could have been rejected and he should have been directed to proceed on voluntary retirement with effect from 30.06.2021.

16. Accordingly, we direct that the petitioner shall be considered as having proceeded on voluntary retirement with effect from 30.06.2021, and all consequential benefits to the petitioner be released within a period of 12 weeks from the date the petitioner completes all formalities for the release of his pension and other retirement benefits due in accordance with law.

17. The departmental proceedings that have been initiated against the petitioner for his alleged non-reporting at the GC Nagpur, consequent to our above directions, also stand quashed.



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18. The petition is disposed of in the aforesaid terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 26, 2024/sds/B/DG

Click here to check corrigendum, if any